

## **EXHIBIT 8**

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\*\*\*\* CONFIDENTIAL \*\*\*\*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Adv.Pro.No.  
08-01789 (BRL)

Debtor.

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IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff  
Investment Securities LLC,

Plaintiff,

Adv.Pro.No.  
09-1182 (BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,  
L.P., ARIEL FUND LTD., ASCOT  
PARTNERS, L.P., GABRIEL CAPITAL  
CORPORATION,

Defendants.

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VIDEOTAPED DEPOSITION of JOEL  
EHRENKRANZ, as taken by and before Monique Vouthouris,  
Certified Court Reporter, RPR, CRR and Notary Public  
of the States of New York and New Jersey, at the  
offices of BAKER HOSTETLER, 45 Rockefeller Plaza, New  
York, New York, on Thursday, March 20, 2014,  
commencing at 10:07 a.m.

1 Fund, Ariel or Gabriel?

2 A. Yes.

3 Q. Which funds?

4 A. Gabriel, Ariel and Ascot.

5 Q. Okay. And do you remember the names of  
6 the Ehrenkranz funds that were invested?

7 A. Yes.

8 Q. Okay.

9 A. It would have been Diversified  
10 Arbitrage.

11 Q. And that was invested with which Merkin  
12 entities?

13 A. And Institutional Diversified, I should  
14 say, together with that. That's the offshore piece.  
15 So the onshore piece would be Diversified investing  
16 with Gabriel and with Ascot, and Institutional  
17 Diversified investing with the Ariel.

18 Q. Do you remember what period of time  
19 those funds invested with Ariel, Gabriel and Ascot?

20 A. I'm not sure of the date of start with  
21 Gabriel, but I would guess it would be 1990 or '91.  
22 And Ariel I have a harder time with. I'm going to  
23 guess it would be many years later. And Ascot was  
24 1994 or '5.

25 Q. Okay. Do you remember the dates when,

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1 if and when these investments ended?

2 A. Yes. The investments with Gabriel and  
3 Ariel ended 2002 or 2003. And the Ascot one ended a  
4 year or so after it started, so that put that '95, '6.

5 Q. All right. For both of those funds,  
6 DAS and IDAS, is it correct to refer to them that way?

7 A. Yes.

8 Q. What were their investment strategies?

9 A. Each of them are multi-strategy fund of  
10 funds that invest in a half a dozen different  
11 strategies, attempting to have lower volatility and  
12 reasonable returns relating to current interest rates.

13 Q. Did those funds ever -- were they ever  
14 known by a different name?

15 A. I believe that Diversified Arbitrage,  
16 the name originally was Diversified Income, and that  
17 would be the only name.

18 Q. Would the same difference have been for  
19 Institutional --

20 A. No. I think by then we had moved to  
21 Diversified Arbitrage.

22 Q. Okay. Did you work personally with  
23 these two funds, DAS and IDAS?

24 A. Yes.

25 Q. Can you describe the extent of your

1 hour. This is a decent break point, if you would  
2 like, or I'm happy to continue.

3 THE WITNESS: We can go on, if it's  
4 okay with everyone.

5 BY MR. KITCHEN:

6 Q. Mr. Ehrenkranz, do you know Bernard  
7 Madoff?

8 A. Please tell me the word "know."  
9 Explain the word.

10 Q. Sure. Have you ever met him?

11 A. Yes, sir.

12 Q. When did you meet him? When did you  
13 first meet him?

14 A. I met him for the only time probably  
15 about 1991, '2.

16 Q. And why did you meet him at that time?

17 A. I met him at Ezra's suggestion to  
18 consider investing with him.

19 Q. Were you considering investing with  
20 Mr. Madoff at that time?

21 A. That is why I considered meeting him.

22 Q. Do you recall anything said by  
23 Mr. Merkin at that time regarding Madoff?

24 A. Other than the fact that he suggested  
25 that we meet with him because he considered Mr. Madoff

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1 calls, puts and other transactions, ending balance,  
2 and I thought it was a -- a wonderfully transparent  
3 report.

4 Q. Did anything that you discussed at that  
5 meeting raise concerns with you?

6 A. Yes. The slips which he sent out, he  
7 described that he would send slips were from Madoff  
8 and company, and the statement, the monthly statement  
9 was from Madoff and company.

10 Q. And why was that a concern?

11 A. Because I said where is the independent  
12 verification? And I said to him that this is -- his  
13 strategy was a very interesting strategy for us, and  
14 that we could be an investor with him if he cleared  
15 his trades through some entity like a Merrill Lynch or  
16 a Morgan Stanley or Goldman Sachs or one of the major  
17 clearing firms.

18 Q. Was it typical of you to inquire into  
19 potential investors -- I'm sorry, investment managers  
20 as to whether or not there was independent  
21 verification of trades?

22 A. Absolutely.

23 Q. Why?

24 A. Because that's the only way you can  
25 assure yourself that, in fact, what is occurring, what

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1 you believe is occurring, is, in fact, occurring.

2 Q. So even though you believed that he  
3 gave his clients significant amount of transparency,  
4 that's what you testified to before, you still had a  
5 concern because that transparency was not  
6 independently verified. Is that accurate?

7 A. Yes.

8 Q. Did you discuss any other concerns with  
9 Mr. Madoff?

10 A. No, other than probably how big he  
11 could be in the -- in the -- in what he was doing, and  
12 there was some recollection, which I'm not as clear  
13 about, about the auditing firm that audited the  
14 statements. I was not as clear about it because I  
15 cared about the independent verification.

16 Q. What do you recall about -- I assume  
17 you're talking about Mr. Madoff's auditor?

18 A. Yes. I don't really recall much of  
19 that conversation other than asking -- or having seen  
20 the auditor and having it not be a name of any  
21 recognition and having that as what I'm going to call  
22 a minor concern.

23 My big issue was if it was done through  
24 a Merrill Lynch or Morgan Stanley, I would have had a  
25 somewhat different point of view. I might have

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1 treated that differently, but I don't know.

2 Q. Was it typical when you made inquiries  
3 into potential investment managers to ask about their  
4 auditors?

5 A. We only would invest with someone if we  
6 reviewed an audited statement of a recognized  
7 accounting firm.

8 Q. And can you give me an example of  
9 recognized accounting firms?

10 A. Typically then I think it might have  
11 been the big six. Today I don't -- I mean, today it  
12 would be one of the big four. But there is about  
13 three or four others that are fairly recognized in  
14 this area that --

15 Q. I'm sorry. Finish.

16 A. Yeah. -- that would be part of the  
17 group. There is probably seven or eight or nine  
18 accounting firms that audit -- typically audit firms  
19 like this.

20 Q. But is it accurate that you did not  
21 recognize the name of Mr. Madoff's --

22 A. For certain.

23 MR. STEINER: Objection to form.

24 Q. Do you recall how Mr. Madoff responded  
25 to the issue of this auditor?



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1 A. My brother reporting to me --

2 MR. STEINER: Objection to form.

3 A. -- that Mr. Madoff said he wasn't going  
4 to do it for the very reason I reported.

5 Q. Did you ultimately decide not to invest  
6 with Mr. Madoff then?

7 A. Correct.

8 Q. Following that meeting and phone call,  
9 do you recall having discussions with anyone at  
10 Ehrenkranz regarding your discussions with Madoff?

11 A. Other than we probably reported to  
12 Larry Cohen our meeting.

13 Q. Did you express to him the concerns  
14 that you had had --

15 A. Of course.

16 Q. Do you recall after that having any  
17 discussions with Ezra Merkin regarding --

18 A. Definitely telling him we weren't doing  
19 it for those reasons.

20 Q. And specifically the reasons as to  
21 clearing?

22 A. Yes.

23 Q. And the auditor?

24 A. Yes. Not the auditor, but the reasons  
25 of the independent clearing.

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1 Q. Did he ever suggest that you invest  
2 with Mr. Madoff indirectly through Ascot?

3 A. Yes.

4 Q. When did he make that recommendation?

5 A. I'm going to guess that was the year --  
6 I'm going to put it in '94.

7 Q. And what did he say?

8 A. He said that he was creating a fund to  
9 invest with Mr. Madoff and that he encouraged us to  
10 invest in that fund and that he would provide the  
11 independent verification that we found lacking in a  
12 satisfactory mode.

13 Q. Did he explain how that independent  
14 verification would be done?

15 A. He said he was going to have someone in  
16 his office go ahead and monitor the trades that were  
17 made by Mr. Madoff at the time he made them and have  
18 an accounting firm go ahead and monitor it also, give  
19 independent verification of it, a recognized  
20 accounting firm.

21 Q. Do you recall who that firm was?

22 A. I don't.

23 Q. Do you recall if they had a  
24 relationship with Mr. Madoff, I'm sorry, with  
25 Mr. Merkin or his --

1 Q. Sure. You said you recalled paying a  
2 management fee but not an incentive fee.

3 A. To Ascot?

4 Q. To Ascot, correct.

5 A. But your question related to something  
6 else.

7 Q. I appreciate that. Let me rephrase.  
8 Why did you pay that fee? What was its  
9 purpose?

10 A. Well, we paid a fee to Mr. Merkin,  
11 Ascot Fund to him to do the due diligence, arrange the  
12 auditing and do all the things that had to be done  
13 with governance of any pool of assets.

14 Q. Was it your understanding that  
15 Mr. Merkin kept that fee himself or at least his  
16 management company kept that fee?

17 MR. STEINER: Objection to form.

18 A. I assume that, sure.

19 Q. Did he ever express that that fee was  
20 being passed along to Mr. Madoff?

21 A. No.

22 Q. You previously testified that DIS fully  
23 redeemed from Ascot Partners towards the end of 1995.  
24 Is that correct? Why did you redeem then?

25 A. I don't remember the markets as well in

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1 that period of time. But the stability of the returns  
2 began to belie any understanding of how it was  
3 possible to achieve, and we just became sufficiently  
4 uncomfortable with the whole idea of his ability to do  
5 this. And notwithstanding Merkin's feeling that it  
6 was okay, we just were sufficiently uncomfortable. We  
7 just didn't want to be there.

8 Q. Okay. Can you explain further what you  
9 mean by stability of the return?

10 A. It's hard, it's almost unimaginable in  
11 the financial markets to go ahead and get the kind of  
12 positive returns on a monthly basis that Mr. Madoff  
13 seemed to be able to get, and at some point in time it  
14 just belied logic and it had belied logic, and I  
15 really couldn't care less, if we weren't invested,  
16 hearing about it. But once we were invested, it  
17 really was -- it made us very, very uncomfortable, and  
18 there is no reason to be uncomfortable.

19 Q. Did you have any discussions with  
20 Mr. Merkin regarding that?

21 A. Oh, yes, many.

22 Q. What did you say to him?

23 A. I said what I just said, that it was  
24 very hard to achieve these kinds of returns and just  
25 almost impossible. And Mr. Merkin thought Mr. Madoff

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1 had a wonderful touch, I guess, and had indicated all  
2 that he was doing this our great concern about the  
3 independent verification. But, nevertheless, was very  
4 cordial and gentlemanly when we said we really would  
5 like to be out.

6 Q. Did he ever provide an explanation for  
7 the reason for Mr. Madoff's consistency?

8 A. No.

9 Q. Did he ever provide an explanation for  
10 how BLMIS could generate positive returns even in a  
11 down market?

12 A. No.

13 Q. During the time of that investment, did  
14 you maintain your -- the concerns we previously  
15 discussed about the clearing firm and the auditor?

16 MR. STEINER: Objection to form.

17 A. No. It was -- during the term that we  
18 were invested?

19 Q. Yes.

20 A. No, no. We relied upon Mr. Merkin.

21 Q. Did you continue to discuss those  
22 issues with Mr. Merkin at all?

23 A. If I can take your question to be, you  
24 used the word "continue," did we ever once again  
25 during that period of time discuss that, I don't